

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

V.

C.A. No. 15-137-LPS

THE PRICELINE GROUP INC.,
KAYAK SOFTWARE CORPORATION,
OPENTABLE, INC., AND
PRICELINE.COM LLC,

Defendants.

ORDER

At Wilmington, this **18th** day of **September, 2017**:

For the reasons set forth in the Memorandum Opinion issued this date,

IT IS HEREBY ORDERED that:

1. Plaintiff's Motion for Summary Judgment of No Invalidity of the Asserted Claims of U.S. Patent No. 7,072,849 in View of the Salomon Thesis (D.I. 491-2) is DENIED.
2. Defendants' Motion for Summary Judgment of Indefiniteness of the '967 and '849 Patents (D.I. 328) is DENIED.
3. Plaintiff's Motion for Summary Judgment of No Anticipation for the Asserted Claims of U.S. Patent No. 5,796,967 In View of the HyperCard System (D.I. 353) is GRANTED.
4. Defendants' Motion for Summary Judgment of Noninfringement of the '967 and '849 Patents (D.I. 346) is GRANTED-IN-PART (with respect to the '849 patent) and DENIED-IN-PART (with respect to the '967 patent).

5. Plaintiff's Motion to Strike Certain Portions of David Eastburn's Rebuttal Expert Report (D.I. 382) is DENIED.

6. Defendants' Motion for Summary Judgment of Noninfringement of U.S. Patent No. 5,961,601 and Motion to Exclude Dr. Schmidt's Opinions (D.I. 360) is DENIED.

7. Plaintiff's Motion for Summary Judgment of No Anticipation of the Asserted Claims of U.S. Patent No. 5,961,601 (D.I. 349) is GRANTED.

8. Defendants' Motion for Summary Judgment of Failure to Comply with 35 U.S.C. § 287 for the '601 Patent (D.I. 332) is DENIED.

9. Defendants' Motion for Summary Judgment of Noninfringement of U.S. Patent No. 7,631, 346 (D.I. 336) is DENIED.

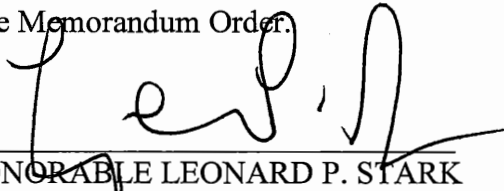
10. Plaintiff's Motion for Partial Summary Judgment on Defendants' Affirmative Defenses (D.I. 343) is GRANTED-IN-PART and DENIED-IN-PART.

11. Defendants' Motion to Exclude Expert Testimony (Dr. Hausman and Dr. Stewart) (D.I. 340) is DENIED.

12. Plaintiff's Motion to Preclude Testimony of Defendants' Damages Expert Keith Ugone (D.I. 355) is DENIED.

13. Plaintiff's Motion to Strike Certain Portions of Defendants' Rebuttal Expert Reports (D.I. 386) is DENIED.

IT IS FURTHER ORDERED that the parties shall meet and confer and, no later than September 20, submit a proposed redacted version of the Memorandum Order.


HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT COURT